

SECOND REGULAR SESSION

# SENATE BILL NO. 935

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR ENGLER.

Read 1st time January 23, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

3991S.02I

## AN ACT

To repeal sections 328.010, 328.015, 328.020, 328.030, 328.040, 328.050, 328.060, 328.070, 328.075, 328.080, 328.085, 328.090, 328.100, 328.110, 328.115, 328.120, 328.130, 328.140, 328.150, 328.160, 329.010, 329.015, 329.025, and 329.028, RSMo, and to enact in lieu thereof five new sections relating to barbers and barber establishments.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 328.010, 328.015, 328.020, 328.030, 328.040, 328.050, 328.060, 328.070, 328.075, 328.080, 328.085, 328.090, 328.100, 328.110, 328.115, 328.120, 328.130, 328.140, 328.150, 328.160, 329.010, 329.015, 329.025, and 329.028, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 329.010, 329.015, 329.025, 329.028, and 329.047, to read as follows:

329.010. As used in this chapter, unless the context clearly indicates otherwise, the following words and terms mean:

(1) "Accredited school of cosmetology or school of manicuring", an establishment operated for the purpose of teaching cosmetology as defined in this section and meeting the criteria set forth under 34 C.F.R. Part 600, sections 600.1 and 600.2;

(2) "Apprentice" or "student", a person who is engaged in training within a cosmetology establishment or school, and while so training performs any of the practices of the classified occupations within this chapter under the immediate direction and supervision of a licensed cosmetologist or instructor;

(3) "**Barber**", any person who is engaged in the capacity so as to shave the beard or cut the hair for the general public shall be construed

**EXPLANATION**—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 as practicing the occupation of "barbering";

14 (4) "Barber establishment", that part of any building wherein or  
15 whereupon any occupation of barbering is being practiced including any  
16 space or barber chair rented within a licensed establishment by a barber  
17 under this chapter, for the purpose of rendering barbering services;

18 (5) "Board", the state board of cosmetology and barber examiners;

19 [(4)] (6) "Cosmetologist", any person who, for compensation, engages in  
20 the practice of cosmetology, as defined in subdivision [(5)] (7) of this section;

21 [(5)] (7) "Cosmetology" includes performing or offering to engage in any  
22 acts of the classified occupations of cosmetology for compensation, which shall  
23 include:

24 (a) "Class CH - hairdresser" includes arranging, dressing, curling,  
25 singeing, waving, permanent waving, cleansing, cutting, bleaching, tinting,  
26 coloring or similar work upon the hair of any person by any means; or removing  
27 superfluous hair from the body of any person by means other than electricity, or  
28 any other means of arching or tinting eyebrows or tinting eyelashes. Class CH  
29 - hairdresser also includes any person who either with the person's hands or with  
30 mechanical or electrical apparatuses or appliances, or by the use of cosmetic  
31 preparations, antiseptics, tonics, lotions or creams engages for compensation in  
32 any one or any combination of the following: massaging, cleaning, stimulating,  
33 manipulating, exercising, beautifying or similar work upon the scalp, face, neck,  
34 arms or bust;

35 (b) "Class MO - manicurist" includes cutting, trimming, polishing,  
36 coloring, tinting, cleaning or otherwise beautifying a person's fingernails, applying  
37 artificial fingernails, massaging, cleaning a person's hands and arms; pedicuring,  
38 which includes cutting, trimming, polishing, coloring, tinting, cleaning or  
39 otherwise beautifying a person's toenails, applying artificial toenails, massaging  
40 and cleaning a person's legs and feet;

41 (c) "Class CA - hairdressing and manicuring" includes all practices of  
42 cosmetology, as defined in paragraphs (a) and (b) of this subdivision;

43 (d) "Class E - estheticians" includes the use of mechanical, electrical  
44 apparatuses or appliances, or by the use of cosmetic preparations, antiseptics,  
45 tonics, lotions or creams, not to exceed ten percent phenol, engages for  
46 compensation, either directly or indirectly, in any one, or any combination, of the  
47 following practices: massaging, cleansing, stimulating, manipulating, exercising,  
48 beautifying or similar work upon the scalp, face, neck, ears, arms, hands, bust,  
49 torso, legs or feet and removing superfluous hair by means other than electric

50 needle or any other means of arching or tinting eyebrows or tinting eyelashes, of  
51 any person;

52 [(6)] (8) "Cosmetology establishment", that part of any building wherein  
53 or whereupon any of the classified occupations are practiced including any space  
54 rented within a licensed establishment by a person licensed under this chapter,  
55 for the purpose of rendering cosmetology services;

56 [(7)] "Cross-over license", a license that is issued to any person who has  
57 met the licensure and examination requirements for both barbering and  
58 cosmetology;

59 (8)] (9) "Hairdresser", any person who, for compensation, engages in the  
60 practice of cosmetology as defined in paragraph (a) of subdivision [(5)] (7) of this  
61 section;

62 [(9)] (10) "Instructor", any person who is licensed to teach cosmetology  
63 or any practices of cosmetology pursuant to this chapter;

64 [(10)] (11) "Manicurist", any person who, for compensation, engages in  
65 any or all of the practices in paragraph (b) of subdivision [(5)] (7) of this section;

66 [(11)] (12) "Parental consent", the written informed consent of a minor's  
67 parent or legal guardian that must be obtained prior to providing body waxing on  
68 or near the genitalia;

69 (13) "School of barbering", an establishment operated for the  
70 purpose of teaching barbering as defined in subdivision (3) of this  
71 section;

72 [(12)] (14) "School of cosmetology" or "school of manicuring", an  
73 establishment operated for the purpose of teaching cosmetology as defined in  
74 subdivision [(5)] (7) of this section.

329.015. 1. There is hereby created and established a "Board of  
2 Cosmetology and Barber Examiners" for the purpose of licensing all persons  
3 engaged in the practice of cosmetology, manicuring, esthetics, and [barbering]  
4 every shop or establishment in which the occupation of barbering is  
5 practiced, including but not limited to shaving or trimming the beard or cutting  
6 the hair; and to fulfill all other duties and responsibilities delegated by [chapter  
7 328, RSMo, as it pertains to barbers and] this chapter as it pertains to  
8 cosmetologists. The duties and responsibilities of the board of cosmetology and  
9 barber examiners as such duties and responsibilities pertain to [barbers] barber  
10 establishments and cosmetologists shall not take full force and effect until such  
11 time as the governor appoints the members of the board of cosmetology and  
12 barber examiners and the appointments are confirmed by the senate. At such

13 time, the powers and duties of the board of barber examiners and the state board  
14 of cosmetology shall be merged into the board under section 329.023.

15         2. The governor shall appoint members to the board by and with the  
16 advice and consent of the senate. The board shall consist of eleven members each  
17 of whom are United States citizens and who have been residents of this state for  
18 at least one year immediately preceding their appointment. Of these eleven  
19 members, three shall be licensed cosmetologists holding a Class CA license  
20 classification, one shall be an accredited cosmetology school owner as defined in  
21 section 329.010, one shall be the owner of a school licensed under subsection 1 of  
22 section 329.040, one shall be a cosmetologist with a license of any type of  
23 cosmetology classification, three shall be **[licensed barbers] owners of barber**  
24 **establishments**, and two shall be voting public members. All members, except  
25 the public members and the accredited cosmetology school owner member, shall  
26 be cosmetologists and **[barbers] owners of barber establishments** duly  
27 registered as such and licensed under the laws of this state and shall have been  
28 actively engaged in the lawful practice of their profession for a period of at least  
29 five years immediately preceding their appointment. All members of the board,  
30 including public members and the accredited cosmetology school owner member,  
31 shall be chosen from lists submitted by the director of the division of professional  
32 registration.

33         3. Upon the appointment of the initial board members, at least two  
34 cosmetologist members and two **[barber members] owners of barber**  
35 **establishments** shall be appointed by the governor to serve a term of four years;  
36 two cosmetologist members, one **[barber member] owner of a barber**  
37 **establishment** and a public member shall be appointed to serve a term of three  
38 years, and the remaining members of the initial board shall be appointed for a  
39 term of two years. Thereafter, all members shall be appointed by the governor  
40 by and with the advice and consent of the senate to serve four-year terms. The  
41 governor shall appoint members to fill any vacancies, whether it occurs by the  
42 expiration of a term or otherwise; provided, however, that any board member  
43 shall serve until his or her successor is appointed and duly qualified. No person  
44 shall be eligible for reappointment that has served as a member of the board for  
45 a total of twelve years.

46         4. At the time of appointment, the public members shall be citizens of the  
47 United States, residents of this state for a period of at least one year immediately  
48 preceding their appointment, and a registered voter. The public members and the  
49 spouse of such members shall be persons who are not and never were a member

50 of any profession licensed or regulated by the board. The public members and the  
51 spouse of such members shall be persons who do not have and never have had a  
52 material financial interest in the provision of the professional services regulated  
53 by the board, or an activity or organization directly related to any professions  
54 licensed or regulated by the board. The duties of the public members and the  
55 accredited school owner member shall not include the determination of the  
56 technical requirements to be met for licensure, or whether any person meets such  
57 technical requirements, or of the technical competence or technical judgment of  
58 a licensee or a candidate for licensure.

59         5. Any member who is a **cosmetology** school owner shall not be allowed  
60 access to the testing and examination materials nor shall any such member be  
61 allowed to attend the administration of the examinations, except when such  
62 member is being examined for licensure.

63         6. The members of the board shall receive as compensation for their  
64 services the sum set by the board not to exceed seventy dollars for each day  
65 actually spent in attendance at meetings of the board plus actual and necessary  
66 expenses.

329.025. 1. The board shall have power to:

2         (1) Prescribe by rule for the examination of applicants for licensure to  
3 practice the classified [occupations of barbering and] **occupation of** cosmetology  
4 and issue licenses;

5         (2) Prescribe by rule for the inspection of barber and cosmetology  
6 establishments and **cosmetology** schools and appoint the necessary inspectors  
7 and examining assistants;

8         (3) Prescribe by rule for the inspection of **cosmetology and barber**  
9 establishments and schools of [barbering and] cosmetology as to their sanitary  
10 conditions and to appoint the necessary inspectors and, if necessary, examining  
11 assistants;

12         (4) Set the amount of the fees that this chapter [and chapter 328, RSMo,  
13 authorize and require] **authorizes and requires**, by rules promulgated under  
14 section 536.021, RSMo. The fees shall be set at a level sufficient to produce  
15 revenue that shall not substantially exceed the cost and expense of administering  
16 this chapter [and chapter 328, RSMo];

17         (5) Employ and remove board personnel, as set forth in subdivision (4) of  
18 subsection 15 of section 620.010, RSMo, including an executive secretary or  
19 comparable position, inspectors, investigators, legal counsel and secretarial  
20 support staff, as may be necessary for the efficient operation of the board, within

21 the limitations of its appropriation;

22 (6) Elect one of its members president, one vice president, and one  
23 secretary with the limitation that no single profession can hold the positions of  
24 president and vice president at the same time;

25 (7) Promulgate rules necessary to carry out the duties and responsibilities  
26 designated by this chapter [and chapter 328, RSMo];

27 (8) Determine the sufficiency of the qualifications of applicants; and

28 (9) Prescribe by rule the minimum standards and methods of  
29 accountability for the schools of [barbering and] cosmetology licensed under this  
30 chapter [and chapter 328, RSMo].

31 2. The board shall create no expense exceeding the sum received from  
32 time to time from fees imposed under this chapter [and chapter 328, RSMo].

33 3. A majority of the board, with at least one representative of each  
34 profession being present, shall constitute a quorum for the transaction of  
35 business.

36 4. The board shall meet not less than six times annually.

37 5. Any rule or portion of a rule, as that term is defined in section 536.010,  
38 RSMo, that is created under the authority delegated in this chapter [and chapter  
39 328, RSMo,] shall become effective only if it complies with and is subject to all of  
40 the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
41 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the  
42 powers vested with the general assembly under chapter 536, RSMo, to review, to  
43 delay the effective date or to disapprove and annul a rule are subsequently held  
44 unconstitutional, then the grant of rulemaking authority and any rule proposed  
45 or adopted after August 28, 2001, shall be invalid and void.

329.028. 1. There is hereby created in the state treasury a fund to be  
2 known as the "Board of Cosmetology and Barber Examiners Fund", which shall  
3 consist of all moneys collected by the board. All fees provided for in this chapter  
4 [and chapter 328, RSMo,] shall be payable to the director of the division of  
5 professional registration in the department of economic development, who shall  
6 keep a record of the account showing the total payments received and shall  
7 immediately thereafter transmit them to the department of revenue for deposit  
8 in the state treasury to the credit of the board of cosmetology and barber  
9 examiners fund. All the salaries and expenses for the operation of the board shall  
10 be appropriated and paid from such fund.

11 2. The provisions of section 33.080, RSMo, to the contrary  
12 notwithstanding, money in this fund shall not be transferred and placed to the

13 credit of general revenue until the amount in the fund at the end of the biennium  
14 exceeds two times the amount of the appropriation from the board's funds for the  
15 preceding fiscal year or, if the board requires by rule license renewal less  
16 frequently than yearly, then three times the appropriation from the board's funds  
17 for the preceding fiscal year. The amount, if any, in the fund which shall lapse  
18 is that amount in the fund which exceeds the appropriate multiple of the  
19 appropriations from the board's funds for the preceding fiscal year.

20 3. Upon appointment by the governor and confirmation by the senate of  
21 the board, all moneys deposited in the board of barbers fund created in section  
22 328.050, RSMo, and the state board of cosmetology fund created in section  
23 329.240, shall be transferred to the board of cosmetology and barber examiners  
24 fund created in subsection 1 of this section. The board of barbers fund and the  
25 state board of cosmetology fund shall be abolished when all moneys are  
26 transferred to the board of cosmetology and barber examiners fund.

**329.047. 1. The owner of every shop or establishment in which the  
2 occupation of barbering is practiced shall obtain a license for such shop  
3 or establishment issued by the board before barbering is practiced  
4 therein. A new license shall be obtained for a barber establishment  
5 within forty-five days when the establishment changes ownership or  
6 location. The sanitary inspector shall inspect the sanitary conditions  
7 required for licensure, established under subsection 2 of this section, for  
8 an establishment that has changed ownership or location without  
9 requiring the owner to close business or deviate in any way from the  
10 establishment's regular hours of operation.**

11 **2. The board shall issue a license for a barber establishment upon  
12 receipt of the license fee from the applicant if the board finds that the  
13 establishment complies with the sanitary regulations adopted under  
14 section 329.045. All barber establishments shall continue to comply with  
15 the sanitary regulations. Failure of a barber establishment to comply  
16 with the sanitary regulations shall be grounds for the board to file a  
17 complaint with the administrative hearing commission to revoke,  
18 suspend, or censure the establishment's license or place the  
19 establishment's license on probation.**

20 **3. The license for a barber establishment shall be renewable. The  
21 applicant for renewal of the license shall on or before the renewal date  
22 submit the completed renewal application accompanied by the required  
23 renewal fee. If the renewal application and fee are not submitted within**

24 thirty days following the renewal date, a penalty fee plus the renewal fee  
25 shall be paid to renew the license. If a new establishment opens any  
26 time during the licensing period and does not register a license before  
27 opening, there shall be a delinquent fee in addition to the regular  
28 fee. The license shall be kept posted in plain view within the barber  
29 establishment at all times.

30 4. The board shall set the amount of the fees for the licensure of  
31 barber establishments by rules and regulations promulgated pursuant  
32 to section 536.021, RSMo. The fees shall be set at a level to produce  
33 revenue which shall not substantially exceed the cost and expense of  
34 administering this chapter.

35 5. The board shall, with the approval of the department of health  
36 and senior services, prescribe such sanitary rules as it may deem  
37 necessary to prevent the creation and spread of infectious and  
38 contagious diseases. A copy of such rules shall be posted in a  
39 conspicuous place in every barber shop and barber school or college in  
40 this state.

[328.010. As used in this chapter, unless the context clearly  
2 indicates otherwise, the following terms mean:

3 (1) "Barber", any person who is engaged in the capacity so  
4 as to shave the beard or cut and dress the hair for the general  
5 public shall be construed as practicing the occupation of "barber",  
6 and the said barber or barbers shall be required to fulfill all  
7 requirements within the meaning of this chapter;

8 (2) "Barber establishment", that part of any building  
9 wherein or whereupon any occupation of barbering is being  
10 practiced including any space or barber chair rented within a  
11 licensed establishment by a person licensed under this chapter, for  
12 the purpose of rendering barbering services;

13 (3) "Board", the board of cosmetology and barber examiners;

14 (4) "Cross-over license", a license that is issued to any  
15 person who has met the licensure and examination requirements  
16 for both barbering and cosmetology;

17 (5) "School of barbering", an establishment operated for the  
18 purpose of teaching barbering as defined in subdivision (1) of this  
19 section.]

[328.015. 1. Upon appointment by the governor and

confirmation by the senate of the board, the board of barber examiners shall be abolished and its duties and responsibilities shall merge into the board as established under section 329.015, RSMo. The board shall be a continuance of and shall carry out the duties of the board of barber examiners.

2. Upon appointment by the governor and confirmation by the senate of the board, all of the powers, duties, and functions of the board of barber examiners shall be transferred to, conferred, and imposed upon the board. The board shall be the successor in every way to the powers, duties, and functions of the board of barber examiners.

3. Every act performed in the exercise of such powers, duties, and authorities by or under the authority of the board shall be deemed to have the same force and effect as if performed by the board of barber examiners under this chapter, including any amendments thereto effective with the passage of this section or prior to August 28, 2005.

4. All rules of the board of barber examiners and any amendments to such rules shall continue to be effective and shall be deemed to be duly adopted rules of the board until revised, amended, or repealed by the board. The board shall review such rules and shall adopt new rules as required for the administration of this chapter for barbers and cosmetologists.

5. Any person or entity licensed or provisionally licensed by the board of barber examiners prior to the appointment by the governor and confirmation by the senate of the board, shall be considered licensed in the same manner by the board.]

[328.020. It shall be unlawful for any person to practice the occupation of a barber in this state, unless he or she shall have first obtained a license, as provided in this chapter.]

[328.030. A board of examiners consisting of four members, including one voting public member, shall be appointed by the governor, by and with the advice and consent of the senate. Each member of the board shall be a United States citizen, shall have been a resident of Missouri for one year and, except for the public member, shall have been a registered and practicing barber for the five years immediately preceding his or her initial

8 appointment. The public member shall be a registered voter and  
9 a person who is not and never was a member of any profession  
10 licensed or regulated pursuant to this chapter or the spouse of such  
11 person; and a person who does not have and never has had a  
12 material, financial interest in either the providing of the  
13 professional services regulated by this chapter, or an activity or  
14 organization directly related to any profession licensed or regulated  
15 pursuant to this chapter. All members, including public members,  
16 shall be chosen from lists submitted by the director of the division  
17 of professional registration. The duties of the public member shall  
18 not include the determination of the technical requirements to be  
19 met for licensure or whether any person meets such technical  
20 requirements or of the technical competence or technical judgment  
21 of a licensee or a candidate for licensure. Each member shall serve  
22 for a term of four years and until his or her successor is appointed  
23 and qualified, except that the successors to the members whose  
24 terms expire in 1981 shall consist of one member whose term shall  
25 be for two years, one member whose term shall be for three years,  
26 and one member whose term shall be for four years. Each member  
27 shall take the oath provided by law for public officers. Vacancies  
28 on the board shall be filled by appointment by the governor.]

[328.040. The board shall annually elect from its number a  
2 president, vice president, and secretary-treasurer, shall have its  
3 headquarters in Jefferson City, Missouri, may employ such board  
4 personnel, as defined in subdivision (4) of subsection 16 of section  
5 620.010, RSMo, as it shall deem necessary within the appropriation  
6 therefor. The board shall not create any expense exceeding the  
7 sum received from time to time as fees as provided by law, shall  
8 have a common seal, and the president and vice president shall  
9 have the power to administer oaths. A majority of the board, in  
10 meeting duly assembled, may perform the duties and exercise the  
11 powers devolving upon the board under the provisions of this  
12 chapter.]

[328.050. 1. Each member of the board shall receive as  
2 compensation an amount set by the board not to exceed fifty dollars  
3 for each day devoted to the affairs of the board, and shall be  
4 entitled to reimbursement of his expenses necessarily incurred in

5 the discharge of his official duties. All money payable under this  
6 chapter shall be collected by the division of professional  
7 registration in the department of economic development which shall  
8 transmit them to the department of revenue for deposit in the state  
9 treasury to the credit of a "Board of Barbers Fund". Warrants shall  
10 be drawn upon the treasurer out of this fund only for the payment  
11 of the salaries, office and other necessary expenses of the board. A  
12 detailed statement of the expenses incurred by the board, approved  
13 by the secretary-treasurer of the board, shall be filed with the  
14 commissioner of administration before warrants are drawn for their  
15 payment.

16 2. The provisions of section 33.080, RSMo, to the contrary  
17 notwithstanding, money in this fund shall not be transferred and  
18 placed to the credit of general revenue until the amount in the fund  
19 at the end of the biennium exceeds two times the amount of the  
20 appropriation from the board's funds for the preceding fiscal year  
21 or, if the board requires by rule permit renewal less frequently  
22 than yearly, then three times the appropriation from the board's  
23 funds for the preceding fiscal year. The amount, if any, in the fund  
24 which shall lapse is that amount in the fund which exceeds the  
25 appropriate multiple of the appropriations from the board's funds  
26 for the preceding fiscal year.]

[328.060. 1. The board shall set the amount of the fees  
2 which this chapter authorizes and requires by rules and regulations  
3 promulgated pursuant to section 536.021, RSMo. The fees shall be  
4 set at a level to produce revenue which shall not substantially  
5 exceed the cost and expense of administering this chapter.

6 2. The board shall, with the approval of the department of  
7 health and senior services, prescribe such sanitary rules as it may  
8 deem necessary to prevent the creation and spread of infectious and  
9 contagious diseases. A copy of such rules shall be posted in a  
10 conspicuous place in every barber shop and barber school or college  
11 in this state.]

[328.070. The board shall hold public examinations at least  
2 four times in each year, at such times and places as it may deem  
3 advisable, notice of such examinations to be published at least ten  
4 days prior to the date of the examination. The board shall publish

5 its notice of the examination date, place, and time in any manner  
6 that it deems appropriate. In lieu of holding its own examinations  
7 for barber applicants, the board may contract with an outside  
8 entity qualified to examine applicants for licensure.]

[328.075. 1. Any person desiring to practice as an  
2 apprentice for barbering in this state shall apply to the board, shall  
3 be registered as an apprentice with the board, and shall pay the  
4 appropriate fees prior to beginning their apprenticeship. Barber  
5 apprentices shall be of good moral character and shall be at least  
6 seventeen years of age.

7 2. Any person desiring to act as an apprentice supervisor  
8 for barbering in this state shall first possess a license to practice  
9 the occupation of barbering, apply to the board, pay the appropriate  
10 fees, complete an eight-hour apprentice supervision instruction  
11 course certified by the board, and be issued a license as a barber  
12 apprentice supervisor prior to supervising barber apprentices.

13 3. The board may promulgate rules establishing the criteria  
14 for the supervision and training of barber apprentices.

15 4. Any rule or portion of a rule, as that term is defined in  
16 section 536.010, RSMo, that is created under the authority  
17 delegated in this section shall become effective only if it complies  
18 with and is subject to all of the provisions of chapter 536, RSMo,  
19 and, if applicable, section 536.028, RSMo. This section and chapter  
20 536, RSMo, are nonseverable and if any of the powers vested with  
21 the general assembly pursuant to chapter 536, RSMo, to review, to  
22 delay the effective date, or to disapprove and annul a rule are  
23 subsequently held unconstitutional, then the grant of rulemaking  
24 authority and any rule proposed or adopted after August 28, 2004,  
25 shall be invalid and void.]

[328.080. 1. Any person desiring to practice barbering in  
2 this state shall make application for a license to the board and  
3 shall pay the required barber examination fee.

4 2. The board shall examine each qualified applicant and,  
5 upon successful completion of the examination and payment of the  
6 required license fee, shall issue the applicant a license authorizing  
7 him or her to practice the occupation of barber in this state. The  
8 board shall admit an applicant to the examination, if it finds that

9 he or she:

10 (1) Is seventeen years of age or older and of good moral  
11 character;

12 (2) Is free of contagious or infectious diseases;

13 (3) Has studied for at least one thousand hours in a period  
14 of not less than six months in a properly appointed and conducted  
15 barber school under the direct supervision of a licensed instructor;  
16 or, if the applicant is an apprentice, the applicant shall have served  
17 and completed no less than two thousand hours under the direct  
18 supervision of a licensed barber apprentice supervisor;

19 (4) Is possessed of requisite skill in the trade of barbering  
20 to properly perform the duties thereof, including the preparation of  
21 tools, shaving, haircutting and all the duties and services incident  
22 thereto; and

23 (5) Has sufficient knowledge of the common diseases of the  
24 face and skin to avoid the aggravation and spread thereof in the  
25 practice of barbering.

26 3. The board shall be the judge of whether the barber  
27 school, the barber apprenticeship, or college is properly appointed  
28 and conducted under proper instruction to give sufficient training  
29 in the trade.

30 4. The sufficiency of the qualifications of applicants shall be  
31 determined by the board.

32 5. For the purposes of meeting the minimum requirements  
33 for examination, the apprentice training shall be recognized by the  
34 board for a period not to exceed five years.]

[328.085. 1. The board shall grant without examination a  
2 license to practice barbering to any applicant who holds a current  
3 barber's license which is issued by another state or territory whose  
4 requirements for licensure were equivalent to the licensing  
5 requirements in effect in Missouri at the time the applicant was  
6 licensed or who has practiced the trade in another state for at least  
7 two consecutive years. An applicant under this section shall pay  
8 the appropriate application and licensure fees at the time of  
9 making application. A licensee who is currently under disciplinary  
10 action with another board of barbering shall not be licensed by  
11 reciprocity under the provisions of this chapter.

12           2. Any person who has lawfully practiced or received  
13 training in another state who does not qualify for licensure without  
14 examination may apply to the board for licensure by  
15 examination. Upon application to the board, the board shall  
16 evaluate the applicant's experience and training to determine the  
17 extent to which the applicant's training and experience satisfies  
18 current Missouri licensing requirements and shall notify the  
19 applicant regarding his deficiencies and inform the applicant of the  
20 action which he must take to qualify to take the examination.

21           3. The applicant for licensure under this section shall pay  
22 a fee equivalent to the barber examination fee.]

          [328.090. Any person desiring to teach barbering in this  
2 state in a barber school, college or barber shop must first possess  
3 a license to practice the occupation of barbering and make  
4 application to the board for an examination as a teacher or  
5 instructor in said occupation and shall pay the required instructor  
6 examination fee. The board shall examine such applicant and after  
7 finding that he or she is duly qualified to teach said occupation, the  
8 board shall issue to him or her a license entitling him or her to  
9 teach barbering in this state, subject to all the provisions of this  
10 chapter. Holders of licenses to teach barbering shall, on or before  
11 the expiration of their respective licenses, make application for the  
12 renewal of same, and shall in each case pay the instructor renewal  
13 fee. Should any person holding a license to teach barbering fail to  
14 renew same within the time prescribed herein, such person shall be  
15 required to pay a reinstatement fee in addition to the regular  
16 license fee provided for herein. Any person failing to renew his or  
17 her license to teach barbering for a period not exceeding two years  
18 may reinstate said license upon the payment of the renewal fee in  
19 addition to the reinstatement fee, but any person failing to renew  
20 his or her license to teach barbering for a period exceeding two  
21 years and desiring to be licensed as a teacher of barbering in this  
22 state will be required to pass a satisfactory examination as to his  
23 or her qualifications to teach barbering and shall pay the instructor  
24 examination fee.]

          [328.100. The board may at any time require any barber to  
2 whom a certificate of registration is issued to be examined at the

licensee's expense by a licensed physician to ascertain if such barber is free of infectious or contagious diseases and is not afflicted with any physical or mental ailment which would render him unfit to practice the occupation of barbering.]

[328.110. 1. Every person engaged in barbering shall on or before the renewal date apply for the renewal of his or her license.

2. Each application for renewal shall state the number of the licensee's expiring license, and be accompanied by his or her renewal fee. Any person holding a license as a barber, except as herein provided, who fails to apply for renewal within two months of the expiration date of his or her license, shall pay a reinstatement fee in addition to the regular license renewal fee. Any person who fails to renew his or her license, except as herein provided, for a period not exceeding two years may reinstate his or her license upon payment of the license renewal fee for each delinquent year in addition to the reinstatement fee prescribed herein, but any barber, except as herein provided, who fails to renew his or her license for a period exceeding two years but less than five years and desires to be licensed as a barber in this state will be required to pass the practicum portion of the state's licensing examination as to his or her qualifications to practice barbering and shall pay the barber examination fee.

3. A holder of a barber license who has been honorably discharged from the United States armed forces, and has not renewed his or her license as herein provided, shall, upon his or her return to barbering within one year from date of honorable discharge, pay one dollar for renewal of same.]

[328.115. 1. The owner of every shop or establishment in which the occupation of barbering is practiced shall obtain a license for such shop or establishment issued by the board before barbering is practiced therein. A new license shall be obtained for a barber shop or establishment before barbering is practiced therein when the shop or establishment changes ownership or location.

2. The board shall issue a license for a shop or establishment upon receipt of the license fee from the applicant if the board finds that the shop or establishment complies with the sanitary regulations adopted pursuant to section 328.060. All

11 shops or establishments shall continue to comply with the sanitary  
12 regulations. Failure of a shop or establishment to comply with the  
13 sanitary regulations shall be grounds for the board to file a  
14 complaint with the administrative hearing commission to revoke or  
15 suspend the license for the shop or censure or place on probation  
16 the holder thereof.

17 3. The license for a shop or establishment shall be  
18 renewable. The applicant for renewal of the license shall on or  
19 before the renewal date submit the completed renewal application  
20 accompanied by the required renewal fee. If the renewal  
21 application and fee are not submitted within thirty days following  
22 the renewal date, a penalty fee plus the renewal fee shall be paid  
23 to renew the license. If a new shop opens any time during the  
24 licensing period and does not register a license before opening,  
25 there shall be a delinquent fee in addition to the regular fee. The  
26 license shall be kept posted in plain view within the shop or  
27 establishment at all times.]

[328.120. 1. Any firm, corporation or person may make  
2 application to the board for a license to own and operate a barber  
3 school or college on the form prescribed by the board. Every barber  
4 school or college in which the occupation of barbering is taught  
5 shall be required to obtain a license from the board prior to  
6 opening. The license shall be issued upon approval of the  
7 application by the board, the payment of the required fees, and the  
8 board's determination that the applicant meets all other  
9 requirements of this chapter and any rules promulgated  
10 thereunder. The license shall be kept posted in plain view within  
11 the barber school or college at all times.

12 2. A barber school or college license renewal application and  
13 fee shall be submitted on or before the renewal date of any school  
14 or college license issued under this section. If the barber school or  
15 college license renewal fee is not paid on or before the renewal  
16 date, a late fee shall be added to the regular license renewal fee.

17 3. The board shall promulgate rules and regulations  
18 regarding the course of study in a barber school or college, and may  
19 revoke any license issued hereunder for any violation of the  
20 provisions of this section or rule promulgated pursuant to this

section. The board shall follow the procedure prescribed by chapter 621, RSMo, to revoke a barber school license. Licenses shall not be restricted to any one group or person but shall be granted to any reasonably qualified person or group under a fair and nondiscriminating method of determination.

4. There shall be not less than one teacher or instructor for every fifteen students in any barber school or college holding a license under this section.

5. The barber school or college shall immediately file with the board the name and age of each student entering the school, and the board shall cause the same to be entered in a register kept for that purpose. A registration fee shall be paid by the student.

6. The barber school or college shall certify to the board the names of all students who successfully completed a course of study approved by the board and consisting of at least one thousand hours of study under the direct supervision of a licensed instructor in a period of not less than six months.

7. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[328.130. The board shall issue a printed license to each person successfully meeting the board's requirements for licensure, which shall be evidence the holder thereof is entitled to practice the occupation of barbering in this state. The licensee shall post his or her license in a conspicuous place in front of his or her working chair where it may be readily seen by all persons whom he or she may serve.]

[328.140. There shall be kept a register, in which shall be entered the names of all persons to whom certificates are issued, and to whom permits for serving apprenticeship, or as students, under this chapter, and said register shall, at all reasonable times, be open to the public inspection.]

[328.150. 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant

6 of his right to file a complaint with the administrative hearing  
7 commission as provided by chapter 621, RSMo.

8 2. The board may cause a complaint to be filed with the  
9 administrative hearing commission as provided by chapter 161,  
10 RSMo, against any holder of any certificate of registration or  
11 authority, permit or license required by this chapter or any person  
12 who has failed to renew or has surrendered his certificate of  
13 registration or authority, permit or license for any one or any  
14 combination of the following causes:

15 (1) Use of any controlled substance, as defined in chapter  
16 195, RSMo, or alcoholic beverage to an extent that such use impairs  
17 a person's ability to perform the work of any profession licensed or  
18 regulated by this chapter;

19 (2) The person has been finally adjudicated and found  
20 guilty, or entered a plea of guilty or nolo contendere, in a criminal  
21 prosecution under the laws of any state or of the United States, for  
22 any offense reasonably related to the qualifications, functions or  
23 duties of any profession licensed or regulated under this chapter,  
24 for any offense an essential element of which is fraud, dishonesty  
25 or an act of violence, or for any offense involving moral turpitude,  
26 whether or not sentence is imposed;

27 (3) Use of fraud, deception, misrepresentation or bribery in  
28 securing any certificate of registration or authority, permit or  
29 license issued pursuant to this chapter or in obtaining permission  
30 to take any examination given or required pursuant to this chapter;

31 (4) Obtaining or attempting to obtain any fee, charge,  
32 tuition or other compensation by fraud, deception or  
33 misrepresentation;

34 (5) Incompetency, misconduct, gross negligence, fraud,  
35 misrepresentation or dishonesty in the performance of the functions  
36 or duties of any profession licensed or regulated by this chapter;

37 (6) Violation of, or assisting or enabling any person to  
38 violate, any provision of this chapter, or of any lawful rule or  
39 regulation adopted pursuant to this chapter;

40 (7) Impersonation of any person holding a certificate of  
41 registration or authority, permit or license or allowing any person  
42 to use his or her certificate of registration or authority, permit,

43 license or diploma from any school;

44 (8) Disciplinary action against the holder of a license or  
45 other right to practice any profession regulated by this chapter  
46 granted by another state, territory, federal agency or country upon  
47 grounds for which revocation or suspension is authorized in this  
48 state;

49 (9) A person is finally adjudged insane or incompetent by  
50 a court of competent jurisdiction;

51 (10) Assisting or enabling any person to practice or offer to  
52 practice any profession licensed or regulated by this chapter who  
53 is not registered and currently eligible to practice under this  
54 chapter;

55 (11) Issuance of a certificate of registration or authority,  
56 permit or license based upon a material mistake of fact;

57 (12) Failure to display a valid certificate or license if so  
58 required by this chapter or any rule promulgated hereunder;

59 (13) Violation of any professional trust or confidence;

60 (14) Use of any advertisement or solicitation which is false,  
61 misleading or deceptive to the general public or persons to whom  
62 the advertisement or solicitation is primarily directed;

63 (15) Failure or refusal to properly guard against contagious,  
64 infectious or communicable diseases or the spread thereof.

65 3. After the filing of such complaint, the proceedings shall  
66 be conducted in accordance with the provisions of chapter 621,  
67 RSMo. Upon a finding by the administrative hearing commission  
68 that the grounds, provided in subsection 2, for disciplinary action  
69 are met, the board may, singly or in combination, censure or place  
70 the person named in the complaint on probation on such terms and  
71 conditions as the board deems appropriate for a period not to  
72 exceed five years, or may suspend, for a period not to exceed three  
73 years, or revoke the license, certificate, or permit.]

2 [328.160. Any person practicing the occupation of barbering  
3 without having obtained a license as provided in this chapter, or  
4 willfully employing a barber who does not hold a valid license  
5 issued by the board, managing or conducting a barber school or  
6 college without first securing a license from the board, or falsely  
pretending to be qualified to practice as a barber or instructor or

7 teacher of such occupation under this chapter, or failing to keep  
8 any license required by this chapter properly displayed or for any  
9 extortion or overcharge practiced, and any barber college, firm,  
10 corporation or person operating or conducting a barber college  
11 without first having secured the license required by this chapter,  
12 or failing to comply with such sanitary rules as the board, in  
13 conjunction with the department of health and senior services,  
14 prescribes, or for the violation of any of the provisions of this  
15 chapter, shall be deemed guilty of a class C  
16 misdemeanor. Prosecutions under this chapter shall be initiated  
17 and carried on in the same manner as other prosecutions for  
18 misdemeanors in this state.]

✓

Bill

Copy